

AMENDED IN ASSEMBLY AUGUST 9, 2004

AMENDED IN SENATE MARCH 22, 2004

SENATE BILL

No. 1340

Introduced by Senator Perata

February 18, 2004

An act to amend Sections 84104, ~~84203~~, 84203.5, ~~84204~~, 90000, 90003, and 91013.5 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1340, as amended, Perata. Political Reform Act of 1974.

(1) Under existing law, the Political Reform Act of 1974, it is the duty of each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements and to comply with other specified campaign disclosure provisions. The filer is required to maintain these records for a specified period.

This bill would provide that it is also the duty of each candidate, treasurer, and elected officer to establish that campaign statements were properly filed. The bill would revise the period for which the filer is required to maintain the above-described records.

(2) Under the Political Reform Act of 1974, a candidate or committee that has made independent expenditures totaling \$1,000 or more in a calendar year is required to file independent expenditure reports, as specified.

This bill would require filing officers to maintain paper independent expenditure reports under the name of the candidate or measure supported or opposed by the independent expenditure.

~~(3) Under the Political Reform Act, a committee that makes a late independent expenditure, as defined, is required to report the expenditure, as specified, within 24 hours of the time it is made. The act also requires each candidate or committee that makes or receives a late contribution, as defined, to report the late contribution, as specified, within 24 hours of the time the late contribution is made or received.~~

~~This bill would provide that late independent expenditure reports are not required for any committee filing independent expenditure reports pursuant to a specified provision. The bill also would provide that late contribution reports are not required for contributions disclosed pursuant to specified provisions.~~

~~(4) The act requires the Franchise Tax Board to make audits and field investigations, as specified, with respect to reports and statements filed with the Secretary of State regarding campaign disclosure and lobbyists, and grants the board discretionary authority to do the same.~~

~~This bill additionally would require the board to make audits and field investigations with respect to reports and statements filed with the Secretary of State regarding limitations on contributions.~~

~~(5)~~

~~(4) The act authorizes the Fair Political Practices Commission or the filing officer to bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to the act.~~

~~This bill would provide that the civil action shall be commenced within 4 years after the date on which the monetary penalty, fee, or civil penalty was imposed.~~

~~(6)~~

~~(5) Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.~~

~~This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.~~

~~(7)~~

~~(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(8)~~



(7) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 84104 of the Government Code is
2 amended to read:

3 84104. It shall be the duty of each candidate, treasurer, and
4 elected officer to maintain detailed accounts, records, bills, and
5 receipts necessary to prepare campaign statements, to establish
6 that campaign statements were properly filed, and to otherwise
7 comply with the provisions of this chapter. The detailed accounts,
8 records, bills, and receipts shall be retained by the filer for a period
9 specified by the commission. However, the commission shall not
10 require retention of records for a period longer than the statute of
11 limitations specified in Section 91000.5 or two years after the
12 adoption of an audit report pursuant to Chapter 10 (commencing
13 with Section 90000), whichever is less.

14 ~~SEC. 2. Section 84203 of the Government Code is amended~~
15 ~~to read:~~

16 ~~84203. (a) Each candidate or committee that makes or~~
17 ~~receives a late contribution, as defined in Section 82036, shall~~
18 ~~report the late contribution to each office with which the candidate~~
19 ~~or committee is required to file its next campaign statement~~
20 ~~pursuant to Section 84215. The candidate or committee that makes~~
21 ~~the late contribution shall report his or her full name and street~~
22 ~~address and the full name and street address of the person to whom~~
23 ~~the late contribution has been made, the office sought if the~~
24 ~~recipient is a candidate, or the ballot measure number or letter if~~
25 ~~the recipient is a committee primarily formed to support or oppose~~
26 ~~a ballot measure, and the date and amount of the late contribution.~~
27 ~~The recipient of the late contribution shall report his or her full~~
28 ~~name and street address, the date and amount of the late~~
29 ~~contribution, and whether the contribution was made in the form~~

1 of a loan. The recipient shall also report the full name of the
2 contributor, his or her street address, occupation, and the name of
3 his or her employer, or if self-employed, the name of the business.

4 (b) A late contribution shall be reported by facsimile
5 transmission, telegram, guaranteed overnight mail through the
6 United States Postal Service, or personal delivery within 24 hours
7 of the time it is made in the case of the candidate or committee that
8 makes the contribution and within 24 hours of the time it is
9 received in the case of the recipient. A late contribution shall be
10 reported on subsequent campaign statements without regard to
11 reports filed pursuant to this section.

12 (c) A late contribution need not be reported nor shall it be
13 deemed accepted if it is not cashed, negotiated, or deposited and
14 is returned to the contributor within 24 hours of its receipt.

15 (d) A report filed pursuant to this section shall be in addition to
16 any other campaign statement required to be filed by this chapter.

17 (e) The report required pursuant to this section is not required
18 for contributions disclosed pursuant to subdivision (a) or (b) of
19 Section 85309.

20 SEC. 3.—

21 SEC. 2. Section 84203.5 of the Government Code is amended
22 to read:

23 84203.5. (a) In addition to any campaign statements required
24 by this article, if a candidate or committee has made independent
25 expenditures totaling one thousand dollars (\$1,000) or more in a
26 calendar year to support or oppose a candidate, a measure or
27 qualification of a measure, it shall file independent expenditure
28 reports at the same time, covering the same periods, and in the
29 places where the candidate or committee would be required to file
30 campaign statements under this article, as if it were formed or
31 existing primarily to support or oppose the candidate or measure
32 or qualification of the measure. No independent expenditure
33 report need be filed to cover a period for which there has been no
34 activity to report.

35 (b) An independent expenditure report shall contain the
36 following information:

37 (1) The name, street address, and telephone number of the
38 candidate or committee making the expenditure and of the
39 committee's treasurer, and the number assigned to the committee
40 by the Secretary of State.

(2) If the report is related to a candidate, the full name of the candidate and the office and district for which the candidate seeks nomination or election. If the report is related to a measure or qualification of a measure, the number or letter of the measure, or if none has yet been assigned, a brief description of the subject matter of the measure, and the jurisdiction in which the measure is to be voted on or would be voted on if it qualified.

(3) The total amount of expenditures related to the candidate or measure during the period covered by the report made to persons who have received less than one hundred dollars (\$100).

(4) The total amount of expenditures related to the candidate or measure during the period covered by the report made to persons who have received one hundred dollars (\$100) or more.

(5) For each person to whom an expenditure of one hundred dollars (\$100) or more related to the candidate or measure has been made during the period covered by the report and for each person who has provided consideration for an expenditure of one hundred dollars (\$100) or more during the period covered by the report:

(A) His or her full name.

(B) His or her street address.

(C) If the person is a committee, the name of the committee, the number assigned to the committee by the Secretary of State, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(D) The date of the expenditure.

(E) The amount of the expenditure.

(F) A brief description of the consideration for which each expenditure was made and the value of the consideration if less than the total amount of the expenditure.

(G) The cumulative amount of expenditures to such person.

(6) A list of all the filing officers with whom the committee filed its most recent campaign statement.

(c) Filing officers shall maintain paper reports filed pursuant to this section under the name of the candidate or measure supported or opposed by the independent expenditure.

~~SEC. 4. Section 84204 of the Government Code is amended to read:~~

~~84204. (a) A committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, telegram,~~

1 ~~guaranteed overnight mail through the United States Postal~~
2 ~~Service, or personal delivery within 24 hours of the time it is made.~~
3 ~~A late independent expenditure shall be reported on subsequent~~
4 ~~campaign statements without regard to reports filed pursuant to~~
5 ~~this section.~~

6 ~~(b) A committee that makes a late independent expenditure~~
7 ~~shall report its full name and street address, as well as the name,~~
8 ~~office, and district of the candidate if the report is related to a~~
9 ~~candidate, or if the report is related to a measure, the number or~~
10 ~~letter of the measure, the jurisdiction in which the measure is to be~~
11 ~~voted upon, and the amount and the date, as well as a description~~
12 ~~of goods or services for which the late independent expenditure~~
13 ~~was made. In addition to the information required by this~~
14 ~~subdivision, a committee that makes a late independent~~
15 ~~expenditure shall include with its late independent expenditure~~
16 ~~report the information required by paragraphs (1) to (5), inclusive,~~
17 ~~of subdivision (f) of Section 84211, covering the period from the~~
18 ~~day after the closing date of the last campaign report filed to the~~
19 ~~date of the late independent expenditure, or if the committee has~~
20 ~~not previously filed a campaign statement, covering the period~~
21 ~~from the previous January 1 to the date of the late independent~~
22 ~~expenditure. No information required by paragraphs (1) to (5),~~
23 ~~inclusive, of subdivision (f) of Section 84211, that is required to~~
24 ~~be reported with a late independent expenditure report by this~~
25 ~~subdivision, is required to be reported on more than one late~~
26 ~~independent expenditure report.~~

27 ~~(c) A committee that makes a late independent expenditure~~
28 ~~shall file a late independent expenditure report in the places where~~
29 ~~it would be required to file campaign statements under this article~~
30 ~~as if it were formed or existing primarily to support or oppose the~~
31 ~~candidate or measure for or against which it is making the late~~
32 ~~independent expenditure.~~

33 ~~(d) A report filed pursuant to this section shall be in addition to~~
34 ~~any other campaign statement required to be filed by this article.~~

35 ~~(e) The report required pursuant to this section is not required~~
36 ~~for any committee filing reports pursuant to Section 85500.~~

37 ~~SEC. 5.—~~

38 *SEC. 3.* Section 90000 of the Government Code is amended
39 to read:

1 90000. Except as provided in Section 90006, the Franchise
2 Tax Board shall make audits and field investigations with respect
3 to the following:

4 (a) Reports and statements filed with the Secretary of State
5 under Chapter 4 (commencing with Section 84100), Chapter 5
6 (commencing with Section 85100), and Chapter 6 (commencing
7 with Section 86100).

8 (b) Local candidates and their controlled committees selected
9 for audit pursuant to subdivision (i) of Section 90001.

10 ~~SEC. 6.—~~

11 *SEC. 4.* Section 90003 of the Government Code is amended
12 to read:

13 90003. In addition to the audits and investigations required by
14 Section 90001, the Franchise Tax Board and the commission may
15 make investigations and audits with respect to any reports or
16 statements required by Chapter 4 (commencing with Section
17 84100), Chapter 5 (commencing with Section 85100), or Chapter
18 6 (commencing with Section 86100).

19 ~~SEC. 7.—~~

20 *SEC. 5.* Section 91013.5 of the Government Code is amended
21 to read:

22 91013.5. (a) In addition to any other available remedies, the
23 commission or the filing officer may bring a civil action and obtain
24 a judgment in superior court for the purpose of collecting any
25 unpaid monetary penalties, fees, or civil penalties imposed
26 pursuant to this title. The action may be filed as a small claims,
27 limited civil, or unlimited civil case, depending on the
28 jurisdictional amount. The venue for this action shall be in the
29 county where the monetary penalties, fees, or civil penalties were
30 imposed by the commission or the filing officer. In order to obtain
31 a judgment in a proceeding under this section, the commission or
32 filing officer shall show, following the procedures and rules of
33 evidence as applied in ordinary civil actions, all of the following:

34 (1) That the monetary penalties, fees, or civil penalties were
35 imposed following the procedures set forth in this title and
36 implementing regulations.

37 (2) That the defendant or defendants in the action were
38 notified, by actual or constructive notice, of the imposition of the
39 monetary penalties, fees, or civil penalties.

1 (3) That a demand for payment has been made by the
2 commission or the filing officer and full payment has not been
3 received.

4 (b) A civil action brought pursuant to subdivision (a) shall be
5 commenced within four years after the date on which the monetary
6 penalty, fee, or civil penalty was imposed.

7 ~~SEC. 8.—~~

8 *SEC. 6.* No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 ~~SEC. 9.—~~

18 *SEC. 7.* The Legislature finds and declares that this bill
19 furthers the purposes of the Political Reform Act of 1974 within
20 the meaning of subdivision (a) of Section 81012 of the
21 Government Code.

